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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,630	01/19/2005	Eiji Ueda	10873.1556USWO	4212
53148 7590 04/22/2008 HAMRE, SCHUMANN, MUELLER & LARSON P.C. P.O. BOX 2902-0902 MINNEAPOLIS, MN 55402				
EXAMINER				
NGUYEN, LINH THI				
ART UNIT		PAPER NUMBER		
2627				
MAIL DATE		DELIVERY MODE		
04/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/521,630

**Applicant(s)**

UEDA ET AL.

**Examiner**

LINH T. NGUYEN

**Art Unit**

2627

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-8, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 9, and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5-8, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko et al (US Patent Number 5471449) in view of Osakabe (US Patent number 5872763).

In regards to claims 1 and 7, Kaneko et al discloses a deficiency detecting apparatus (Fig. 1), which detects deficiencies on an information medium that are unable to be recorded or reproduced when an information signal is recorded/reproduced with respect to the information medium using a light beam generated by a laser light source (Column 2 lines 14-20), comprising: a power adjusting section (APC) for adjusting an emitting power of the laser light source to an optimum value (Column 3, lines 56-60); and a deficiency detecting section for comparing a threshold (reference) value (Fig. 1, element 55).

In the same field of endeavor, Osakabe discloses a threshold hold value (the threshold value is the optimum recording laser value Pwo, Peo, or Pbo) determined by calculating a non-fixed variable value that varies depending on the emitting power of the laser light source (Fig. 1, element 16) adjusted by the power adjusting section (Column 3, lines 35-39) with a value corresponding to reflected light that is the light beam

reflected by an information layer of the information medium (Fig. 1, element 36 and Column 4, lines 1-25). At the time of the invention it would have been obvious to a person of ordinary skill in the art to combine the defect detection by comparing a threshold value of Kaneko et al by using the threshold value that is determine by the varies depending on the emitting power as suggested by Osakabe. The motivation for doing so would have been to optimized recording power laser output value and prevent reproduction error (abstract).

In regards to claims 2 and 8, Kaneko et al discloses deficiency detection by comparing a threshold value. However, Kaneko does not but Osakabe discloses wherein the threshold value is determined in accordance with an emitting power selected from a predetermined range of laser power (Fig. 9 and 10). The motivation is the same as claim 1 above.

In regards to claims 5 and 11, Kaneko et al discloses deficiency detection by comparing a threshold value. However, Kaneko et al does not but Osakabe discloses, an emitting power adjusted by the power adjusting section is composed of plural power levels (Fig. 4), and determines the threshold value in accordance with the highest power level among the plural power levels (Fig. 4, the highest power is writing power). The motivation is the same as claim 1 above.

In regards to claims 6 and 12, Kaneko et al does not but Osakabe discloses an apparatus, wherein the emitting power adjusted by the power adjusting section is composed of plural power levels (Fig. 4), determines the threshold value in accordance

with an erasing power level that is used for erasing among the plural power levels (Fig. 12). The motivation is the same as claim 1 above.

### ***Allowable Subject Matter***

Claims 3, 4, 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In regards to claims 3 and 9, none of the reference alone or in combination discloses a threshold value determine by an average of emitting power.

In regards to claims 4 and 10, none of the reference alone or in combination discloses a threshold value determine by the sum of emitting power.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 and 7 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINH T. NGUYEN whose telephone number is (571)272-5513. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LN

April 17, 2008

/Wayne R. Young/

Supervisory Patent Examiner, Art Unit 2627